

REMARKS

Applicant appreciates the thorough examination of the present application as evidenced by the Office Action of October 9, 2007. In particular, Applicant appreciates the Examiner's consideration of Applicant's information disclosure statement filed concurrently with Applicant's Amendment and Request for Reconsideration of July 23, 2007. Applicant also appreciates the Examiner's withdrawal of the previous rejection. *See* Office Action, page 2. Applicant respectfully submits that the pending claims are patentable over the cited references for at least the reasons discussed herein.

The Section 103 Rejections

A. Claims 1-2, 5, 8, 10, 12, 14-15, 18 and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over United States Patent Publication No. 2003/032949 to Fallon (hereinafter "Fallon") in view of United States Patent Publication No. 2002/0024717 to Sneeringer (hereinafter "Sneeringer"). *See* Office Action, page 2. Applicant respectfully submits that many of the recitations of Claim 1 are neither disclosed nor suggested by the cited combination for at least the reasons discussed herein. For example, Claim 1 recites:

A method of **estimating a cost savings attributable to use of a UPS in a backup power system**, the method comprising the following steps implemented in a data processing system:

obtaining historical power status information relating to operation of **the UPS in the backup power system**; and
computing an estimate of cost savings for the UPS from the obtained historical power status information.

Independent Claims 10 and 14 contain corresponding calculator and computer program product recitations, respectively. Applicant respectfully submits that at least the highlighted recitations of Claim 1 are neither disclosed nor suggested by the cited combination for at least the reasons discussed herein.

The Office Action states that Fallon teaches all the recitations of Claim 1 except "computing an estimate of cost savings from the obtained historical power status information." *See* Office Action, page 2. However, the Office Action points to Sneeringer as providing the missing teachings. *See* Office Action, page 2. Applicant respectfully submits that the combination of Fallon and Sneeringer does not disclose or suggest the recitations of

Claim 1 and that there is no motivation to combine Fallon and Sneeringer as suggested in the Office Action for at least the reasons discussed herein.

Fallon discusses a user interface providing UPS information as recited in the title. As discussed in Fallon:

[0108] In at least some embodiments of the invention, **parts of the software application 70 can track information about the events that occur, to provide further information to a user and/or to the manufacturer(s) of the UPS 50 and/or the software application 70.** For example, in at least one embodiment of the invention, the event notifier 130 also provides information for an event log. The worker module 100 maintains a log of all events generated by the UPS 50 as well some events associated with the software application. The event log includes the date, time and description of the event.

[0109] **The events that are logged are used to generate information and reports about the performance of the UPS 50 and can be used for other aspects of the software application 70. Representative examples of events that can be logged include blackout, undervoltage, overvoltage, sensitivity fluctuation, self-test with result, worksafe condition, shutdown, hibernation, and online (the latter can be used to determine how long the UPS 50 was on battery due to a power event).** FIG. 10 is an illustrative representative screen shot illustrating a performance summary report 400 based on events that the software application 70 logged over a time period., which may include information such as when the battery backup last intervened, the period of time the battery backup was in use, how many times battery backup power has been used and the like.

See Fallon, Figure 10 and paragraphs 108 and 109 (emphasis added). In other words, Fallon discusses tracking information associated with a UPS and generating reports including the tracked information. Figure 10 of Fallon illustrates an exemplary report generated using the systems/methods of Fallon. The teachings of Fallon are limited to providing information with respect to one or more UPSs in a user friendly manner. Nothing in Fallon discloses or suggests using the obtained information relating to operation of a UPS to compute an estimate of cost savings for a particular UPS as recited in Claim 1 of the present application.

Sneeringer does not provide the missing teachings. In particular, the Office Action points to paragraphs 114, 136 and 160 of Sneeringer as providing the missing teachings. See Office Action, pages 3 and 4. Applicant respectfully disagrees. In particular, Sneeringer discusses a method and architecture for web-based monitoring of energy related usage as stated in the title. As discussed in Sneeringer:

...Customers thus are provided the ability to do analysis, e.g., power quality analysis, over the Internet or other suitable network that is able to capture their **resource usage in various different forms, for example, natural gas, gasoline, electricity, propane, band width, cable television signals, cellular communications signals, local telephone service, long distance telephone service, Internet usage, satellite signals, and the like.**...The types of information that the customer may see, include, for example, the load in energy, the actual building layout/structure, historical bills, and/or a forecasting component that helps forecast the amount of energy a customer may use based upon a forecast for a given location or a given customer site...

Sneeringer, paragraph 114 (emphasis added). In other words, Sneeringer discusses monitoring/managing "resource usage" for customers. The resource usage is for the entire structure, for example, commercial structures, residential structures, industrial structures and the like. See Sneeringer, paragraph 34. As illustrated in, for example, Figures 3 and 4 and the corresponding text of Sneeringer, the meters (meters/intelligent meters) are provided such that they monitor resource usage on a large scale, for example, per house, per building and the like. As discussed in paragraph 136 of Sneeringer, the "resource usage" results may be used to pass savings on to the customer. For example, as discussed in paragraph 128 of Sneeringer, customers A and B may unite and negotiate a better rate from the resource provider. Finally, paragraph 160 of Sneeringer discusses that the data center 50 (Figure 4) may optionally be backed up using a UPS. As further discussed in paragraph 160, the use of a UPS is only one of "five sets of back-up redundancy" for Sneeringer. In stark contrast, Claim 1 recites computing an estimate of cost savings for a single UPS from obtained historical power status information. In other words, embodiments of the present invention provide information as to whether a particular UPS is saving money for the company. Applicant admits that Sneeringer discusses UPSs generally (See paragraph 160), however, nothing in Sneeringer discloses or suggests computing an estimate of cost savings for **the** UPS from the obtained historical power status information as recited in Claim 1.

Accordingly, Applicant respectfully submits that the cited combination does not disclose or suggest computing an estimate of cost savings **for the UPS from the obtained historical power status information** as recited in Claim 1 for at least the reasons discussed herein. Furthermore, Applicant respectfully submits that the Office Action does not provide an adequate motivation to combine the cited references as suggested in the Office Action. Applicant would like to point out that to establish a *prima facie* case of obviousness, the prior

art reference or references when combined must teach or suggest all the recitations of the claims, and **there must be some suggestion or motivation**, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, **to modify the reference or to combine reference teachings**. M.P.E.P. §2143 (emphasis added). **A patent composed of several elements is not proven obvious merely by demonstrating that each of its elements was, independently, known in the prior art.** *KSR Int'l Co. v. Teleflex Inc.*, 550 U. S. 1, 15 (2007) (emphasis added). One of the ways in which a patent's subject matter can be proven obvious is by noting that there existed at the time of invention a known problem for which there was an obvious solution encompassed by the patent's claims. *Id.* at 16. When there is a design need or market pressure to solve a problem and there are a finite number of identified, predictable solutions, a person of ordinary skill has good reason to pursue the known options within his or her technical grasp. *Id.* at 17.

The Office Action states:

Therefore, it would have been obvious to one of ordinary skill in the art to modify Fallon to include the features of Sneeringer because informing the user of a backup power supply of the cost savings realized through the use of such a device is an excellent means to justify the purchase and maintenance of a backup power supply and provide the user with additional data concerning the operation of their backup power supply.

See Office Action, page 4. Applicant respectfully submits that the motivation provided in the Office Action is not adequate to sustain the Office's burden under section 103. As discussed above, a patent composed of several elements is not proven obvious merely by demonstrating that each of its elements was, independently, known in the prior art. In other words, the Office cannot just use Applicant's disclosure to locate the individual recitations of the claims in multiple references and then conclude that it would have been obvious to combine the references to teach the claims as a whole. If this were allowed, then every claim would be rendered obvious. The motivation must be present in the references or in the art without using Applicant's disclosure as a road map. If the motivation provided in the Office Action were adequate to sustain the Office's burden, then anything that "is an excellent means to justify the purchase and maintenance of a backup power supply" would render a combination obvious. This cannot be the case.

Furthermore, even if combined, the combination does not disclose or suggest computing an estimate of cost savings from the obtained historical power status information as recited in Claim 1. The combination of Fallon and Sneeringer teaches a system for collecting information related to the operation of a UPS, presenting this information in a user friendly manner and obtaining "resource usage" associated with a structure. Nothing in the cited combination discloses or suggests provision of a cost estimate for a particular UPS as recited in Claim 1 of the present application.

Accordingly, Applicant respectfully submits that Claims 1, 10 and 14 and the claims that depend therefrom are patentable over the cited combination for at least the reasons discussed above. Therefore, Applicant respectfully requests reconsideration and withdrawal of the rejections with respect to these claims.

B. Claims 3-4, 9, 13, 16-17 and 22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Fallon, in further view of Sneeringer, and in still further view of United States Patent No. 6,411,910 to Eulau (hereinafter "Eulau"). *See* Office Action, page 5. Applicant respectfully disagrees. For example, independent Claim 7 recites:

A method of estimating cost savings attributable to use of a UPS in a backup power system, the method comprising the following steps implemented on a data processing system:

receiving historical power status information from the UPS over a communications link;

accepting a power outage cost factor from a user interface;

computing an estimate of cost savings for the UPS based on the historical power status information and the power outage cost factor; and

displaying the estimate of cost savings for the UPS on the user interface.

Independent Claim 20 contains corresponding computer program product recitations.

Applicant respectfully submits that at least the highlighted recitations of Claim 7 are neither disclosed nor suggested by the cited combination for at least the reasons discussed herein.

In particular, the Office Action states that Fallon teaches all the recitations of Claim 7 except "accepting a power outage cost factor from a user interface and computing an estimate of cost savings based on the historical power status information and the power outage cost factor." *See* Office Action, page 5. However, the Office Action points to Eulau as providing the missing teachings. *See* Office Action, page 11. Applicant respectfully submits that the

combination of Fallon, Sneeringer and Eulau does not disclose or suggest the recitations of Claim 7 and that there is no motivation to combine Fallon, Sneeringer and Eulau as suggested in the Office Action for at least the reasons discussed above with respect to Claim 1.

Accordingly, Applicant respectfully submits that Claims 7 and 20 and the claims that depend therefrom are patentable over the cited combination for at least the reasons discussed above. Therefore, Applicant respectfully requests reconsideration and withdrawal of the rejections with respect to these claims.

Many of the Dependent Claims are Separately Patentable over the cited combination

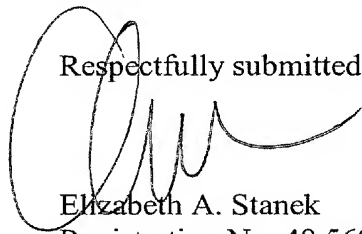
As discussed above, the dependent claims are patentable over the cited references at least per the patentability of the independent base claims from which they depend. However, many of the dependent claims are also separately patentable over the cited combination.

For example, dependent Claims 4, 9, 13, 17 and 22 recite the details of computing an estimate of cost savings for a UPS based on obtained historical power status information. As discussed above, nothing in the cited combination discloses or suggests computing a cost estimate based on historical data. Thus, it follows that nothing in the cited references disclose or suggest the details thereof. Accordingly, Applicant respectfully submits that dependent Claims 4, 9, 13, 17 and 22 are patentable over the cited references for at least these additional reasons.

CONCLUSION

In light of the above discussion, Applicant submits that the present application is in condition for allowance, which action is respectfully requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (919) 854-1400.

Respectfully submitted,



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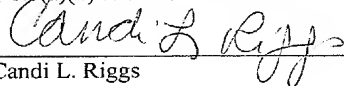
In re: Marcus A. Maxwell
Serial No.: 10/701,850
Filed: November 5, 2003
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